



California State Board of Education Policy

POLICY #

98-04

SUBJECT

Educational Programs and Services for English Learners

DATE

October 1998

REFERENCES

See below.

HISTORICAL NOTES

Superseded Policy #98-01 (adopted April 1998) on the same subject.

After considerable deliberation and discussion, the California State Board of Education adopts the following policy statement on educational programs and services for English learners¹.

Focus of Department of Education Support and Compliance Activity. This policy is intended to guide the California Department of Education in providing technical and support services to school districts in the implementation of high quality programs for English learners. While the State Board of Education recognizes that the Department has a responsibility to oversee programs for English learners for compliance with applicable law as described in this policy, it is the intent of the State Board in this policy to direct the Department to focus resources on providing appropriate technical and support services to school districts in the development and implementation of high quality programs for English learners. Specifically, the technical assistance provided by the Department shall focus on the teaching of English learners to read and write in English.

All programs for English learners shall be subject to the same compliance standards. In particular, compliance efforts shall emphasize results (i.e., after a reasonable period, application of the locally selected educational theory actually overcomes English language barriers confronting the students and does not leave them with a substantive academic deficit). Compliance standards shall specifically ensure that English learners are taught to read and write in English.

The Department shall use the compliance monitoring and due process procedures for educational programs and services for English learners that it uses for other categorical programs except to the extent those procedures are inconsistent with this policy and shall advise local educational agencies that they may avail themselves of due process in all compliance matters related to those programs. All compliance reviews and monitoring of educational programs and services for English learners shall reflect, and be consistent with, the policy directions and interpretations of state and federal law provided herein.

Policy Framework for District Programs. The State Board of Education recognizes that the size and diversity of the population of English learners is constantly increasing, and these students

¹English learners include all students who are otherwise classified as limited-English proficient.



require supplemental services, funding and staffing. This policy is intended to provide school districts with a conceptual framework for implementing high quality programs for this diverse population of English learners.

Based upon federal law, Education Code Section 300 et. seq. and the funding provisions of Education Code Section 62002, the State Board of Education urges all school districts to teach English learners to listen, speak, read, and write in the English language and provide those students with an opportunity to learn, including access to a challenging core curriculum.

All English learners shall become literate in English and this result shall be accomplished by teaching English learners in the English language. However, pursuant to a parental waiver authorized by Education Code Section 311, English learners may become literate in English be being taught English and other subjects through an alternative educational program that may include instruction in other languages.

English fluency and academic achievement in the core curriculum do not need to be achieved simultaneously but may be addressed sequentially as long as over a reasonable period of time English learners do not suffer academically as measured under the federal standards established in *Castaneda v. Pickard* (5th cir. 1981) 648 F.2d 989.

Authority. There are three components of substantive law that govern programs and services for English learners; each are addressed in the following discussion.

Federal Law. The 1974 U.S. Supreme Court decision in *Lau v. Nichols* 414 U.S. 563 (1974) as codified in the Equal Education Opportunities Act and other federal laws require that each educational agency “take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.” Federal law does not require primary language instruction or any other specific methodology. “Appropriate action” is determined using the three part analysis developed in *Castaneda v. Pickard* (5th cir. 1981) 648 F.2d 989 as follows:

- *Use sound theory.* The educational theory upon which instruction is based must be recognized as sound by at least some experts in the field.
- *Provide adequate support.* The school system must provide the procedures, resources, and personnel necessary to apply the theory in the classroom. The resulting program must be implemented effectively.
- *Achieve results.* After a reasonable period of time, application of the program must actually overcome English language barriers confronting the students and must not leave them with substantive academic deficits.

State Law. The specific programmatic provisions of California’s “bilingual education” program became inoperative on June 30, 1987, in keeping with Education Code Section 62000.2(d). In keeping with the funding provision of Education Code Section 62002, however, funds for that program “continue for the general purposes of that program as specified in the provisions



relating to the establishment and operation of the program.” Moreover, parent advisory committees required by that program “continue as prescribed by the appropriate law or regulation in effect as of January 1, 1979,” in keeping with Education Code Section 62002.5. The State Board of Education finds and declares that the general purpose of the “bilingual education” program continued through Education Code Section 62002 is to develop in each child fluency in English as effectively and efficiently as possible.

Proposition 227, passed by the electorate on June 2, 1998, added Chapter 3 (commencing with Section 300) to Part 1 of the Education Code, entitled English Language Education For Immigrant Children (hereafter Section 300, et. seq.). Education Code Section 300 clearly states that the purpose of the new law is to teach English as rapidly and effectively as possible to English learners in California public schools.

The State Board of Education finds that this policy illustrates how these three components of substantive law may be harmonized to create a single system governing programs for English learners that emphasizes the rapid, effective, and efficient acquisition of English literacy, specifically including the ability to read and write in the English language.

Goals and Principles Not Binding on School Districts. In keeping with Education Code Section 33308.5, the State Board of Education makes clear that the guidance provided above is advisory in nature and only the requirements of federal law, Education Code Section 300 et seq. and the funding provision of Education Code Section 62002 (and, where applicable, court decisions) are binding upon school districts as they develop and implement educational programs and services for English learners.

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